

Respondent.

Judge Christopher A. Boyko

Therefore, Magistrate Judge Vecchiarelli's Report and Recommendation is **ADOPTED** and Respondent's Motion to Dismiss is granted and Petitioner's Writ of *Habeas Corpus* (Dkt. # 1) is **DISMISSED**.

Furthermore, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: January 6, 2010

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE